

**McCabe, Maureen**

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**From:** Vitacco, Ralph  
**Sent:** Tuesday, May 28, 2019 8:43 AM  
**To:** McCabe, Maureen; Drake, Leanne  
**Subject:** Fwd: Preparing for next ZBA Hearing  
**Attachments:** SMALL SCALE COMMUNITY.docx; ATT00001..htm

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Sent from my iPhone

MAY 28 2019

Begin forwarded message:

BOARD OF APPEALS

**From:** "Lapp, Doug" <[dlapp@townofsandwich.net](mailto:dlapp@townofsandwich.net)>  
**Date:** May 24, 2019 at 6:56:11 PM EDT  
**To:** "Vitacco, Ralph" <[rvitacco@townofsandwich.net](mailto:rvitacco@townofsandwich.net)>, Jonathan Silverstein <[JSilverstein@kplaw.com](mailto:JSilverstein@kplaw.com)>, "Drake, Leanne" <[ldrake@townofsandwich.net](mailto:ldrake@townofsandwich.net)>  
**Subject:** Fwd: Preparing for next ZBA Hearing

FYI

Begin forwarded message:

**From:** Carlo DiPersio <[carlodipersio1234@gmail.com](mailto:carlodipersio1234@gmail.com)>  
**Date:** May 24, 2019 at 4:53:26 PM EDT  
**To:** Carlo DiPersio <[carlodipersio1234@gmail.com](mailto:carlodipersio1234@gmail.com)>  
**Subject:** Preparing for next ZBA Hearing

All,

Dick Harries, Tom Stanton and myself (Carlo) have been meeting everyday testing and retesting thoughts and approaches regarding the Heritage effort to be granted a Special Permit to reopen the Challenge Course at Heritage. We think we have a winning approach. If we can demand that an authorized Town Official develop a written and binding definition of "small-scale" and "community", Heritage will have an extremely difficult time fitting a big business serving 30,000 customers compressed into 5 months (really three) into any fair "small" and "community" definitions. Please read the attached carefully and comment if warranted. Let's demand definitions we can all discuss at open meeting.

Best,  
Carlo

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# SANDWICH ZONING BOARD OF APPEALS HEARING REGARDING SPECIAL PERMIT FOR HERITAGE

Carlo M. DiPersio 5/24/1019

## Clear Understanding

This Hearing is for a Special Permit for the right to operate a "Small-scale Outdoor Recreational Facility" owned by a big business with the facility located on Map 37, Lot #1 and Lot#2 both being residential lots in the heart of the Historical Zone of Sandwich

We all agree---Heritage, this ZBA, the neighbors and the Superior Court Judge Moriarty

1. Applicants name is Adventure Park at Heritage Museum and Gardens, LLC
2. Property address is Map 37, Lot #1 and Lot#2  
Being 0 Shawme Road and 0 Pocasset Road

This ZBA will decide whether or not to Approve and Certify a Special Permit for Heritage to operate a ropes course pursuant to Section 4150 of the Zoning Bylaw on the Property addressed above.

## BUT FIRST OF MONUMENTAL IMPORTANCE

What are the definitions of "Small-scale" and "community" as applicable to this bylaw Section 4150? What definition will legally control Bylaw Section 4150 until legally amended?

## EVEN BEFORE THE ABOVE

This ZBA must obey Zoning Bylaw Section 1332 which states:

**1332. Referral.** The Special Permit Granting Authority (SPGA) shall refer Special Permit applications to the Board of Health, Water Quality Review Committee, Conservation Commission, Housing Authority, Planning Board, Board of Appeals, Highway Department, and Town Engineer for written comments and recommendations pertaining to the area of responsibility of that particular board or department, before taking final action on said special permit application.

Who was this question referred to and what was their written response as required by law?

**By who's authority are the definitions accepted into this Hearing and our bylaws?**

**General Laws Part I, Title VII, Chapter 40A**

The court shall hear all evidence pertinent to the authority of the board or special permit granting authority and determine the facts, and, upon the facts as so determined, annul such decision if found to exceed the authority of such board or special permit granting authority or make such other decree as justice and equity may require.

The Sandwich ZBA does not have the authority to CREATE LAW-----especially given the enormous importance of this application. Every neighbor should demand that "Small-scale" and "community" be legally defined before the ZBA can move on.

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